



STATE OF NEW JERSEY

Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

IN THE MATTER OF APPLICATION OF)
VERIZON NEW JERSEY, INC. FOR)
APPROVAL OF A RESALE AGREEMENT)
WITH FBF, INC. UNDER SECTION 252 OF)
THE TELECOMMUNICATIONS ACT OF)
1996)

TELECOMMUNICATIONS

ORDER APPROVING RESALE AGREEMENT

DOCKET NO. TM01080510

(SERVICE LIST ATTACHED)

BY THE BOARD:

BACKGROUND

By letter dated August 24, 2001, Verizon New Jersey, Inc. (Verizon) filed an application (Application) for approval of a negotiated Resale Agreement (the Agreement) between Verizon and FBF, Inc. (FBF) with the Board of Public Utilities (Board) pursuant to Section 252(e) of the Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq. (the Act). FBF authorized Verizon to file the application on its behalf.

RESALE AGREEMENT

The Agreement, dated July 2, 2001, sets forth the terms, conditions and prices under which Verizon will offer and provide to FBF telecommunications services available for resale and resale support. The Agreement is in effect until July 1, 2003 and thereafter the Agreement shall continue in full force and effect unless terminated as provided in the Agreement.

DISCUSSION

Pursuant to 47 U.S.C. §252(a)(1), an incumbent LEC may negotiate and enter into a binding interconnection agreement with a carrier requesting interconnection, services or elements without regard to the standards set forth in 47 U.S.C. §251(b) and (c).

The Ratepayer Advocate (Advocate) submitted comments on September 27, 2002, regarding this negotiated interconnection agreement, recommending that the Board approve the majority of the agreement and reject those provisions that are inconsistent with the Act. In particular, the Advocate commented that Section 37.2.2 of the agreement should be rejected since it is inconsistent with the Act, and Condition 3 of the Pricing Section should be rejected since it is inconsistent with FCC rules regarding price caps.

The Advocate has previously recommended that the Board reject the above referenced sections of negotiated interconnection agreements, and the Board did not accept those recommendations. See Order I/MO The Joint Application of Verizon New Jersey, Inc. and Ernest Communications, Inc. For Approval of an Interconnection Agreement Under Section 257 of the Telecommunications Act of 1996, Docket No. TO02050287, dated September 18, 2002.

47 U.S.C. §252(e)(1) requires approval by the Board of any resale agreement adopted by negotiation or arbitration, and further requires the Board to approve or reject the Agreement, with written findings as to any deficiencies. The Act provides that the Board may reject a negotiated agreement only if it finds that:

- (i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
- (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.

[47 U.S.C. §252(e)(2)(A)].

We note that pursuant to 47 U.S.C. §252(e)(4), this Resale Agreement has been deemed approved. Nevertheless, the Board's review of the Agreement in this matter indicates that the Agreement is consistent with the public interest, convenience and necessity, and that the Agreement does not discriminate against telecommunications carriers not parties to the Agreement.

Therefore, the Board FINDS that the Agreement meets the standards set forth in the Act, and HEREBY APPROVES the Agreement as presented by the Parties. This approval should not be construed as preapproval of any future petitions for rate recovery of costs incurred pursuant to the Agreement. The Board's approval does not constitute a determination concerning Verizon's obligations pursuant to Section 271 of the Act, although this Agreement will be taken into consideration in that determination. In addition, approval does not constitute a determination concerning, nor shall the Board be bound by, provisions within this Resale Agreement regarding the confidentiality of information.

Additionally, the Board DIRECTS the Parties to conform to all federal and state statutes and Board regulations regarding service quality standards and customer relations, as applicable, including, but not limited to, those related to the resale of telecommunications services, the solicitation of resale customers and the submission of primary interexchange and local exchange carrier change orders to local exchange carriers.

Pursuant to 47 U.S.C. §252(h), a copy of the Agreement will be made available for public inspection and copying within ten days of the issuance of this Order. Subsequent amendments or modifications of the Agreement are subject to review and approval by the Board.

DATED: 4/24/03

BOARD OF PUBLIC UTILITIES
BY:

signed
JEANNE M. FOX
PRESIDENT

signed
FREDERICK F. BUTLER
COMMISSIONER

signed
CAROL J. MURPHY
COMMISSIONER

signed
CONNIE O. HUGHES
COMMISSIONER

signed
JACK ALTER
COMMISSIONER

ATTEST:

signed
KRISTI IZZO
SECRETARY